



UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

Order 99-4-4

Issued by the Department of Transportation
on the 29th day of April, 1999

SERVED: April 9, 1999

**1998 U.S.-JAPAN COMBINATION SERVICE
PROCEEDING**

Docket OST-98-3419

FINAL ORDER

Summary

By this order, we make final our tentative decision in Order 98-3-15 to authorize Hawaiian Airlines, Inc. to serve the Maui-Tokyo market and to allocate to it seven weekly frequencies for services to begin in January 2000.

Background

On January 30, 1998, the United States and Japan agreed to authorize new combination air services in the U.S.-Japan market.¹ By Order 98-3-15, the Department issued a tentative decision, proposing to award various new combination service route rights available under the MOU, including the award to Hawaiian described above.² Objections to our tentative decision were due March 26, 1998; answers to objections were due April 2, 1998.

Responsive Pleadings to Order 98-3-15

Comments to the Department's tentative decision with respect to our proposed award to Hawaiian were filed by Continental/Continental Micronesia, the State of Hawaii, and Isaac Davis

¹ Delegations of the United States and Japan signed a Memorandum of Consultations that attached understandings regarding the elements to be included in a Memorandum of Understanding. The MOU became effective by an exchange of notes dated April 20, 1998.

² We issued a final decision with respect to the other awards by Order 98-5-17.

Hall.³ Answers were filed by Hawaiian and the State of Hawaii. Additional pleadings were filed by the Sierra Club Parties, the State of Hawaii, and Hawaiian.⁴

Continental/Continental Micronesia object only to the extent that the Department proposes to award frequencies to Hawaiian for year 2000 services without comparative consideration with the proposals of other carriers for services commencing after 1998.

In response to Continental/Continental Micronesia, Hawaiian argues that the carriers' objection is disingenuous given the large number of frequencies that those two carriers will hold (49) while Hawaiian, a new entrant, will hold only seven. It further states that the Department already gave full consideration to the issues raised by Continental/Continental Micronesia and concluded that the benefits of new entry outweighed the benefits of additional services by other "non-incumbent" carriers, and that the Department should finalize these conclusions with respect to its award to Hawaiian.

The majority of the comments with respect to the Hawaiian award involved environmental issues affecting Maui's Kahului Airport. The Sierra Club Parties maintain that there are significant environmental concerns, such as the issue of the increased introduction of alien species through international flights, that must be considered before the Department can lawfully award Hawaiian international route authority. In this regard, they state that any final award to Hawaiian without full consideration of these issues would violate the National Environmental Policy Act (NEPA), the Airport and Airways Improvement Act, and the Endangered Species Act. They suggest that the environmental impact of the internationalization of the Kahului Airport be fully addressed in an adequate Environmental Impact Statement (EIS) and that mitigation measures be funded and incorporated into the project.

In response to the Sierra Club Parties' objection, Hawaiian and the State of Hawaii argue that the Department's route award in this proceeding falls within the categorical exclusions from the NEPA requirements under the Department's regulations, since the award does not involve supersonic service or result in an increase in commercial aircraft operations at Maui of one or more per cent. They further argue that the internationalization of the Maui Airport and any mitigation measures that may be required have been considered by the Federal Aviation Administration in its environmental review, and that that process, not this carrier selection proceeding, is the proper forum to address the Sierra Club Parties' concerns. They contend that it would be inappropriate and inconsistent with DOT policy to conduct a duplicative environmental inquiry.⁵ The State of Hawaii states that it is confident that these concerns will be addressed and

³ Mr. Hall represents a number of civic parties in Hawaii interested in the Department's decision regarding service to Maui. Specifically, he represents the Sierra Club, Mary Evanson, Maui Air Traffic Association, Steven Pitt, James Bendon, the National Audubon Society, Hui Alanui o Makena, Dana Naone Hall, and Maui Malama Pon, Inc. (hereinafter referred to as the Sierra Club Parties).

⁴ These pleadings were accompanied by motions for leave to file otherwise unauthorized documents. We will grant the motions.

⁵ In support, Hawaiian and the State of Hawaii cite DOT Order 5610.1C, at p. 2, which expresses the Department of Transportation's firm view in favor of one-stop environmental processing. See April 2, 1998 Answer of the State of Hawaii, at 4.

that the State will work closely with appropriate environmental agencies to ensure effective protection of its natural resources.

The Sierra Club Parties disagree that Hawaiian's award is exempted from the NEPA requirements, arguing that such exemptions are not applicable under federal and state law when the proposed action is part of a larger total undertaking which may have an environment impact. They maintain that such is the case here since the FAA is considering the expansion of Kahului Airport to accommodate services such as those proposed by Hawaiian.

In response, Hawaiian and Hawaii reiterate their positions that Hawaiian's award falls within the categorical exclusions under NEPA and that the Department's predecessor, the Civil Aeronautics Board, already addressed the issue of environmental impact of route awards and concluded that the award of route authority does not compel additional environmental procedures.⁶

Hawaiian's Motion

On October 26, 1998, Hawaiian filed a motion seeking issuance of a final Department order awarding it certificate authority to serve the Maui-Tokyo market as proposed in Order 98-3-15. Hawaiian states that on September 2, 1998, the FAA issued a Record of Decision (ROD) in conjunction with its environmental review of proposed improvements, including a runway extension, at Kahului Airport; that included within the ROD was a Memorandum of Understanding Regarding the Prevention of Alien Species Introduction through Kahului Airport (MOU) among the U.S. Department of Transportation, the U.S. Department of Interior, the U.S. Department of Agriculture, the Hawaii Department of Land and Natural Resources, and the Hawaii Department of Health; and that the MOU includes a Federal-State Alien Species Action Plan (ASAP) for the Kahului Airport, and that Hawaiian will implement the measures outlined in the Action Plan that are relevant to air carrier operations at Kahului. Hawaiian further states that it is prepared to cooperate with those agencies in their efforts to control alien species at Kahului Airport. Hawaiian maintains that the issuance of the ROD removes any impediment to the Department's taking final action on its route award.

The State of Hawaii filed an answer in support of Hawaiian's motion. The Sierra Club Parties filed an answer in opposition. Hawaiian and the State of Hawaii filed responses to the Sierra Club Parties.⁷

The Sierra Club Parties maintain that the FAA's ROD and the ASAP constitute only superficial compliance with NEPA and other pertinent statutes, and that should it subsequently be determined that these statutes were not met, any DOT approval of Hawaiian's service would be voided. In this regard, they note that the adequacy of the FAA's EIS has been challenged in State

⁶ In support, they cite 45 Fed. Reg. 19132, 16134, CAB Implementation of NEPA (March 12, 1980)

⁷ The Sierra Club Parties' answer and the response to that answer were accompanied by motions for leave to file otherwise unauthorized documents. While Hawaiian and the State of Hawaii opposed the Sierra Club Parties' late filing, we will accept all filings in the interest of a complete record.

and Federal Courts.⁸ They also contend that there is an outstanding state order, enforceable against the Hawaiian State Department of Transportation, which provides that regularly scheduled flights should not be permitted at Kahului Airport until international flight operations are fully analyzed in the EIS.

Hawaiian and the State of Hawaii maintain that, as fully discussed in their previous answers, the concerns raised by the Sierra Club Parties do not warrant any further delay in the issuance of a final order awarding Hawaiian the Maui-Tokyo authority that it seeks and that the Department tentatively found was in the public interest. They reiterate their position that the award to Hawaiian in this case is a federal action separate and distinct from the Maui airport expansion project, does not depend on an extension of the runway, and is categorically excluded from formal environmental review pursuant to DOT Order 5610.1C. Furthermore, they contend that contrary to the Sierra Club Parties' assertions, any award to Hawaiian is not subject to reversal by the Ninth Circuit Court of Appeals if it is determined that the EIS is inadequate, since DOT route awards are not subject to NEPA's requirements. Finally they reiterate that the internationalization of the Kahului Airport has been fully considered in the FAA's EIS and accepted by the State of Hawaii and that it would be contrary to Department policy to undertake a separate review of those proceedings in the context of this case.

Decision

We have decided to make final our tentative decision to authorize Hawaiian to serve the Maui-Tokyo market and to allocate to it seven weekly frequencies for this service.

As we emphasized in Order 98-3-15, at p. 9, the designation of Hawaiian as a new entrant in the Maui-Tokyo market will help implement one of the United States' critical core objectives in its negotiations with Japan--to authorize new entry to Japan. There are no competing applications for the designation available January 1, 2000, nor have any arguments been presented which would persuade us to alter our tentative conclusions in this respect. Similarly, we confirm our tentative decision to allocate seven frequencies to Hawaiian to perform that service. We therefore disagree with Continental's argument that we should not act on Hawaiian's application at this time.

In Order 98-5-17, we nevertheless deferred action on Hawaiian's application so that we could further consider the environmental issues raised by the Sierra Club Parties. We conclude that our tentative conclusions to grant a designation and certificate to Hawaiian for the Maui-Tokyo service, and to allocate 7 weekly frequencies for such service, should be made final. In this connection, we note our tentative conclusion in Order 98-3-15, p. 9, that the new entrant carriers will require additional lead-time and preparation in establishing services in the market. Hawaiian has reiterated that point in its November 18, 1998 response to the Sierra Club Parties' opposition to Hawaiian's motion for issuance of a final order on its application, note 4. Accordingly, we find that the public interest does not warrant further delay in our action on Hawaiian's application.

The Sierra Club Parties argue that the grant of authority to Hawaiian constitutes an action "with a significant impact on the environment", and hence requires an environmental impact statement

⁸ Hui Alanui o Makena et al. vs. Benjamin Cayetano, Cir.No. 98-0361(1) filed in the Second Circuit Courts, State of Hawaii, and National Parks and Conservation Association and Maui Malama Pono v. U.S. Department of Transportation et al., filed October 23, 1998, in the United States Court of Appeals for the Ninth Circuit.

before issuance; that exercise of the authority requires an extension of the runway at Maui; that the FAA has only recently issued its Record of Decision containing the final approved environmental impact statement for extension of the Maui airport runway; and that the Record of Decision has been appealed to the courts. Therefore, the Sierra Club Parties argue that the environmental impact statement is not final, and accordingly, that the Department may not issue a final order granting the authority to Hawaiian until completion of judicial review of the FAA's Record of Decision and of the environmental impact statement.

We disagree with the Sierra Club Parties' contention that the grant of authority to Hawaiian requires preparation of an environmental impact statement. Section 4.c. of DOT Order 5610.1C contains specified "Categorical Exclusions," actions which the Department has determined "are not Federal actions with a significant impact on the environment, and do not require either an environmental assessment or an environmental impact statement." Subparagraphs (6)(g) and (j) categorically exclude:

"(g) Route awards that do not involve supersonic service and will not result in an increase in commercial aircraft operations of one or more percent;

"(j) Authorizing carriers to serve airports already receiving the type of service authorized;"

As Hawaiian points out, the seven weekly frequencies allocated to Hawaiian in this proceeding would represent only approximately 0.4% of the operations at Kahului airport.⁹ Moreover, there are currently at least 10 weekly regularly scheduled round-trip flights by three Canadian airlines from Vancouver and Calgary, Canada, non-stop to the Kahului airport.¹⁰ The Maui Kahului airport is also listed by ICAO as an alternate airport for international services.¹¹ Thus Hawaiian's Maui-Tokyo service would constitute operations of the same type of service, international, already operating to the airport.¹² The proposed Hawaiian services, therefore, fall squarely within the categorical exclusions which, under the Department's Order, form the basis for a conclusion that approval does not constitute a federal action with a significant impact on the environment.

The Sierra Club Parties argue, nevertheless, that since the Hawaiian services require the proposed runway extension, and are part of the major expansion of services contemplated following that runway extension, our approval would have a significant impact on the environment notwithstanding the categorical exclusions. We disagree.

⁹ See, the April 2, 1988 Answer of Hawaiian Airlines to Objections, p.3.

¹⁰ See, December 1998 OAG.

¹¹ See, the April 17, 1998 State of Hawaii Surreply, at p. 5.

¹² We cannot agree with the Sierra Club Parties' contention that the fact that the regularly scheduled Canadian international flights are pre-cleared in Canada constitutes a significant basis for distinction in terms of the categorical exclusion provision of subsection 4.c.(6)(j). While some new customs facilities would be required at Kahului Airport, that would not necessarily constitute a significant increase in air services at the airport. In view of the close proximity of the Kahului airport to the permanent customs facilities at the Honolulu airport, we do not anticipate any significant problems in Hawaiian's ability to arrange for temporary customs facilities within existing airport facilities for the single daily inbound flight proposed at the Kahului airport. See, the April 17, 1998 State of Hawaii Surreply, p. 4.

The environmental questions applicable to the extension of the Kahului airport runway, with respect to which an environmental impact statement has been prepared, are substantially different in both kind and degree from our grant of this very limited international route authority to Hawaiian.¹³ Nothing has been presented by the Sierra Club Parties that shows, nor is there any indication, that the adverse environmental consequences which they fear might result from extension of the Kahului runway are applicable to the authorization of this single daily round-trip flight between Maui and Japan in accordance with our international agreement with Japan. More specifically, there is no showing, nor is there any basis for concluding, that the environmental threats arising from the import of alien species constitutes a problem with respect to flights to Japan, or that the Japanese flights pose a more significant environmental threat than the international flights already operating from Canada, or the plethora of flights to Maui from the Continental United States, or to numerous international points by connection at Honolulu.¹⁴

Further, we cannot agree with the Sierra Club Parties' contention that the state and federal court actions involving the FAA's Record of Decision and the environmental impact statement included therein, with respect to the airport expansion, should be determinative of the requirements for an environmental impact statement prior to the grant of the limited authority to Hawaiian in this proceeding. The two proceedings are for entirely different purposes and, contrary to the Sierra Club Parties' attempt to link those proceedings, Hawaiian's proposed service is not intertwined with the runway extension. While Hawaiian anticipates taking advantage of the longer runway in determining the nature of its service, and the equipment to be utilized, its service, as Hawaiian has pointed out, is capable of operation (although with some restrictions) even if the runway extension is not completed prior to commencement of operations.¹⁵ Thus, if the Sierra Club Parties' challenge to the environmental impact statement in FAA's Record of Decision were successful, some adjustment in the proposed non-stop service might be required, but it would not preclude operation of that service.

For these reasons, we conclude that our grant of authority to Hawaiian for the very limited

¹³ In this respect we consider Sierra Club Parties' reliance on *Blue Ocean Preservation Soc. v. Watkins*, 767 F. Supp. 1518, 1521-22 (DCHawaii, 1991) as inapposite. The *Blue Ocean* case involved the third phase of a major four phase project. The court enjoined the DOE from further federal participation in that project pending preparation of an environmental impact statement. Here, the project for which the environmental impact statement has been prepared is the extension of the airport runway. The DOT authority granted here is not involved in the airport runway extension. It is a grant of authority to perform limited air services of the same nature as currently operated at the airport, and the service may be operated whether or not the airport runway extension is implemented. The authorization is not in furtherance of the airport runway extension project.

¹⁴ See, April 2, 1998 Answer of the State of Hawaii, at note 2, p.5; April 2, 1998 Answer of Hawaiian Airlines, at note 8, p.4. The Sierra Club Parties have also provided no analysis or factual information to indicate that the limited operations proposed by Hawaiian pose any likelihood of jeopardizing the continued existence of any endangered or threatened species, or the destruction or adverse modification of their habitat, within the meaning of the *Endangered Species Act*, 16 U.S.C. 1531, *et. seq.*

¹⁵ As Hawaiian notes, utilizing its proposed DC-10-30 re-engined stage 3 aircraft, the service can be operated nonstop inbound, and can be operated outbound with a technical stop at Honolulu for refueling. Utilizing other aircraft, or with restricted loads, the service may be operated outbound without a Honolulu technical stop. See, the May 12, 1998 Opposition of Hawaiian Airlines to Motion, p. 3; the April 16, 1998 Answer of Hawaiian Airlines to Motion, pp. 3-4, 5; and the April 17, 1998 State of Hawaii Surreply, p. 5.

services it proposes, as distinct from the major expansion of services contemplated as a result of the extension of the airport runway, are not likely to involve significant impacts on the environment.

To the extent that any environmental risk might remain by reason of the import of alien species through the existing domestic or international service, the connecting international service through Honolulu, or Hawaiian's proposed service, we note that this Department, along with the U.S. Council on Environmental Quality, the Hawaii Department of Transportation, other Hawaiian State agencies including the Hawaii Department of Agriculture, the Hawaii Department of Land and Natural Resources and the Hawaii Department of Health, as well as the U.S. Department of Interior (which is responsible for a large portion of the land area of Maui) and the U.S. Department of Agriculture, have recently formulated a "Federal-State Alien Species Action Plan for the Kahului Airport, Maui". The Plan was developed to provide a framework for better coordination of efforts at the Kahului Airport to protect against the importation of alien species into Maui through the airport. That Plan has now been completed, and is included in the FAA's Record of Decision and in this docket.

The actions outlined in the Plan include: (1) establish a Kahului Airport Alien Species Prevention Team to monitor and evaluate actions taken to prevent introduction of alien species at the airport, (2) conduct recurring Alien Species Risk Assessments of the airport, (3) collect necessary data to ensure protection against alien species, (4) use of an inflight video by airlines such as Hawaiian on applicable flights educating passengers about alien species protection and instructing them to meet with alien species inspectors upon deplaning, (5) issue an alien species inspection form to arriving passengers, (6) implement an alien species aircraft monitoring and treatment program, (7) conduct an airline and airport employee training program for alien species detection, (8) apply necessary measures for cargo transportation to protect against alien species, (9) immediately implement a snake control program, and (10) operate a quality control program to monitor and assess the alien species interdiction system at Kahului Airport.

In its October 26 Motion for Issuance of Final Order, Hawaiian has stated that it has reviewed this Action Plan, is prepared to cooperate with all the appropriate agencies, and will implement the measures outlined in the Action plan that are relevant to air carrier operations at Kahului. Hawaiian's statement of cooperation assures us that legitimate concerns regarding importation of alien species as a consequence of the proposed service will be dealt with adequately. We fully expect that Hawaiian will make good on its pledge. Further, to the extent that other measures might be included in the Action Plan in the future, we expect that Hawaiian will similarly cooperate in implementation of any such new measures.

We therefore find that the Sierra Club Parties have failed to provide a basis for us to alter our tentative conclusions reached in Order 98-3-15, and that it is in the public interest to designate Hawaiian under the U.S.-Japan Agreement effective January 1, 2000, to grant Hawaiian certificate authority for Maui-Tokyo service, and to allocate to Hawaiian seven weekly frequencies under the U.S.-Japan Agreement in order to operate that service.¹⁶

¹⁶ On the basis of officially noticeable data under Rule 24(n) of our regulations, we find that Hawaiian is fit, willing, and able to provide the services authorized. Hawaiian has previously been found fit to provide scheduled foreign air transportation of persons, property, and mail. See, e.g., Order 97-3-24.

Terms, Conditions, and Limitations

Consistent with our policy with respect to limited-entry routes, we will issue the certificate authority awarded Hawaiian in the form of a five-year, temporary, experimental certificate of public convenience and necessity under 49 U.S.C. section 41102(c).

In addition, the frequency allocation granted will be effective indefinitely, subject to the continued effectiveness of Hawaiian's underlying economic authority as well as to our standard condition that we may amend, modify or revoke the allocation at any time and without hearing, at our discretion.

Finally, consistent with our standard practice, the frequencies allocated to Hawaiian will be subject to our standard 90-day dormancy condition, wherein the frequencies would be deemed dormant if they are not operated for 90 days except where service in the market is seasonal. Where seasonal services are at issue, however, a carrier must notify the Department that its operations are of a seasonal nature; otherwise, the dormancy condition would apply. Under the dormancy condition, if flights allocated are not used for 90 days, the frequency allocation would expire automatically, and the frequencies revert to the Department for reallocation.¹⁷

All of these conditions were proposed in our show-cause order and Hawaiian did not object to them.

Since the issues in this proceeding have been exhaustively briefed, we will not entertain petitions for reconsideration of this order.

ACCORDINGLY,

1. We issue in the form attached a certificate of public convenience and necessity to Hawaiian Airlines, Inc. for services in the Maui-Tokyo market and allocate Hawaiian 7 weekly frequencies for services in this market;
2. Subject to the provisions of this order, the allocation of frequencies to Hawaiian, above, is effective immediately for services commencing no earlier than January 1, 2000, and will remain in effect, provided that Hawaiian continues to hold the underlying authority to operate the authorized services;
3. The frequencies allocated by this order are subject to the condition that if the frequencies are not used for a period of 90 days (after they become available on January 1, 2000) they will revert automatically to the Department for reallocation, and the further condition that we may amend, modify or revoke the allocation at any time and without hearing at our discretion;

¹⁷ Consistent with our standard practice, the 90-day dormancy period would begin on January 1, 2000, the date on which Hawaiian has proposed to commence service in the Maui-Tokyo market.

4. Unless disapproved by the President of the United States under 49 U.S.C. section 41307, this order and the attached certificate shall become effective on the 61st day after its submission for section 41307 review, or upon the date of receipt of notice from the President or his designee under Executive Order 12597 and implementing regulations that he or she does not intend to disapprove the Department's order under that section, whichever comes earlier;¹⁸

5. We grant all motions for leave to file otherwise unauthorized documents in the Hawaiian phase of this proceeding; and

6. We will serve this order on all parties to this proceeding; the Ambassador of Japan in Washington, DC; the U.S. Department of State (Office of Aviation Negotiations); and the Federal Aviation Administration (AFS-200).

7. Petitions for reconsideration of this Order will not be entertained.

8. We reserve the right to amend or condition the authority granted herein at any time without hearing.

By:

PATRICK V. MURPHY
Deputy Assistant Secretary for
Aviation and International Affairs

(SEAL)

*An electronic version of this document is available on the World Wide Web
http://dms.dot.gov/reports/reports_aviation.asp#orders.*

¹⁸ This order was submitted for section 41307 review on March 29, 1999. On April 8, 1999, we received notification that the President's designee, under Executive Order 12597 and implementing regulations, did not intend to disapprove the Department's order.



**Experimental Certificate
of Public Convenience and Necessity**

For Route

782

This Certifies That

Hawaiian Airlines, Inc.

is authorized, subject to the provisions of Subtitle VII of Title 49 of United States Code, the orders, rules, and regulations issued thereunder, and the attached Terms, Conditions, and Limitations, to engage in foreign air transportation of persons, property, and mail.

This Certificate is not transferable without the approval of the Department of Transportation.

By Direction of the Secretary

**Issued by Order 99-4-4
On March 29, 1999
Effective on April 8, 1999**

**Patrick V. Murphy
Deputy Assistant Secretary for
Aviation and
International Affairs**

Terms, Conditions and Limitations

Hawaiian Airlines, Inc. for **Route 782**

is authorized to engage in scheduled foreign air transportation of persons, property, and mail:

Between the terminal point Maui, Hawaii, and the terminal point Tokyo, Japan;

This authority is subject to the following conditions:

- (1) The holder shall at all times conduct its operations in accordance with the regulations prescribed by the Department of Transportation for the services authorized by this certificate, and with such other reasonable terms, conditions, and limitations as the Department of Transportation may prescribe in the public interest.
- (2) The holder shall at all times conduct its operations in accordance with all treaties and agreements between the United States and other countries, and the exercise of the privileges granted by this certificate is subject to compliance with such treaties and agreements and with any order of the Department of Transportation issued under them. To the extent that the holder has authority to serve more than one country or points in more than one country on the same route segment, that authority does not confer upon the holder any additional rights (including fifth-freedom intermediate and/or beyond rights) in limited-entry markets unless the holder has been specifically designated to conduct such services and the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights. In such cases, the fact that the carrier may hold authority to serve the countries (points) at issue on the same segment will not be considered as providing any preference to the holder in a carrier selection proceeding.
- (3) The exercise of the authority granted here is subject to the holder's first obtaining from the appropriate foreign governments such operating rights as may be necessary.
- (4) The holder acknowledges that this certificate is granted to determine if the holder's projected services, efficiencies, methods, rates, fares, charges, and other projected results will, in fact, materialize and remain for a sustained period of time, and to determine whether the holder will provide the innovative and low-priced air transportation it proposed in its application for this authority.

(5) The holder's authority is effective only to the extent that such operations are also authorized by the Federal Aviation Administration (FAA).

(6) The holder shall at all times remain a "Citizen of the United States" as required by 49 U.S.C. 40102(a)(15).

(7) The holder shall maintain in effect liability insurance coverage as required under 14 CFR Part 205. Failure to maintain such insurance coverage will render a certificate ineffective, and this or other failure to comply with the provisions of Subtitle VII of 49 U.S.C. or the Department's regulations shall be sufficient grounds to revoke this certificate.

(8) Should the holder propose any substantial changes in its ownership, management, or operations (as that term is defined in 14 CFR 204.2(n)), it must first comply with the requirements of 14 CFR 204.5.

(9) In the event that the holder ceases all operations for which it was found "fit, willing, and able," its authority under this certificate shall be suspended under the terms of 14 CFR 204.7 and the holder may neither recommence nor advertise such operations unless its fitness to do so has been redetermined by the Department. Moreover, if the holder does not resume operations within one year of its cessation, its authority shall be revoked for dormancy.

This certificate shall become effective April 8, 1999, for services beginning no earlier than January 1, 2000. It shall expire five years thereafter, unless the Department earlier suspends, modifies, or deletes the authority.

*This certificate is issued to reflect the award of new authority between Maui and Tokyo for a period of five years.